

# Worksession

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| <b>Agenda Item #</b> | 3                                   |
| <b>Meeting Date</b>  | 29 November 2004                    |
| <b>Prepared By</b>   | Sara Anne Daines<br>ECD Director    |
| <b>Approved By</b>   | Barbara B. Matthews<br>City Manager |

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| <b>Discussion Item</b> | Chapter 6 Housing Article 5 Rent Stabilization - Discussion of the capital improvement rent increase petition process as it applies to AC related improvements   |
| <b>Background</b>      | <p>During the November 22 worksession, the Council expressed an interest in amending City Code Chapter 6 Housing Article 5 Rent Stabilization, to limit the types of improvements considered eligible for a capital improvement rent increase. The discussion was precipitated by a recent Court ruling which found that a landlord “who installed central air-conditioning in a building where the tenants had previously provided their own air-conditioning was entitled to a rent increase to recover the cost of installing the air-conditioning.”</p> <p>As noted in the accompanying memorandum, “if the Council wishes to encourage the provision of air conditioning by landlords and the conversion from window units to central air-conditioning, then it should not amend the Rent Stabilization Article in response to the Court’s decision. If the Council would prefer to protect tenants from rent increases resulting from landlords’ provision and upgrading of air-conditioning, then it should make such amendments.”</p> <p>If the listing of eligible capital improvements were limited or the if expenditures a property owner was able to recover were restricted, as discussed November 22, a landlord would be unable to fully recoup the costs incurred in either the purchase and installation of new window air-conditioning units (where the units had been previously provided by the tenant) or the installation of a central air-conditioning system (in cases where the building had previously been air-conditioned by individual window units).</p> <p>Additional information on the Council’s options is included in the accompanying memorandum.</p> |
| <b>Policy</b>          | <p>“To enforce minimum standards of health and safety, fire protection, light and ventilation, cleanliness, repair and maintenance, and occupancy of rental housing residences.” <i>City Code Chapter 6 Article 3 Property Maintenance Code</i></p> <p>“Landlords may petition the Commission for rent increase over the amount remitted by the rent stabilization allowance . . . in order to recover the costs of installing, maintaining, and future improvement of capital improvements.” <i>City Code Chapter 6 Article 5 Rent Stabilization</i></p>  |

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| <b>Fiscal Impact</b>         | Not Applicable.   |
| <b>Attachments</b>           | Memorandum by Kenneth Sigman, Assistant City Attorney: “Possible amendment to Air Conditioning Ordinance to address Circuit Court ruling on appeal of COLTA rent increase petition decision.” |
| <b>Recommendation</b>        | To review the accompanying materials.   |
| <b>Special Consideration</b> | A two reading ordinance is required to amend the City Code.   |

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**S I L B E R &**

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# MEMO

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**P E R L M A N**

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**To:** Sara Anne Daines, Director, Housing and Community Development

**From:** Kenneth Sigman, Asst. City Attorney

**Subject:** Possible amendment to Air Conditioning Ordinance to address Circuit Court ruling on appeal of COLTA rent increase petition decision.

**Date:** November 22, 2004

In my memorandum to the Council dated November 12, 2004, I outlined possible legislative responses to the decision of the Circuit Court for Montgomery County in the appeal of COLTA Case No. 02-39L, regarding the installation of central air conditioning at 8213 Roanoke Avenue. In that case, the court ruled that a landlord who installed central air conditioning in a building where the tenants had previously provided their own air conditioning was entitled to a rent increase to recover the cost of installing the air conditioning. I explained that if the Council disagrees with the Court's ruling, it could address the issue when it enacts the air conditioning ordinance by adding language to the Rent Stabilization article specifically stating that landlords will not receive rent increases based on the installation of air conditioning where tenants have previously provided their own air conditioning. In addition, the amendments could specifically prohibit rent increases based on the cost of upgrading a unit from landlord-provided room air conditioning units to central air conditioning.

The decision to include one or both of the amendments to the Rent Stabilization Article is a matter of policy. If the Council wishes to encourage the provision of air conditioning by landlords and the conversion from window units to central air conditioning, then it should not amend the Rent Stabilization Article in response to the Court's decision. If the Council would prefer to protect tenants from rent increases resulting from landlords' provision and upgrading of air conditioning, then it should make such amendments. As I mentioned in my November 12<sup>th</sup> Memorandum, the Council may also wait and address the issue as part of its comprehensive consideration of the Rent Control Article. Such an approach would eliminate the need for a stopgap measure that could prove to be inconsistent with the City's rent control policy.

The following represents possible amendments to the Rent Stabilization Article:

**Section 6-505(d).** *Petitions for rent increases for capital improvements.*

(4) *Capital improvements for which rent increases may be granted.*

(A) The rent levels for a rental unit or rental facility shall be raised to reflect the amortized costs of planned or completed capital improvements to the rental unit or property, where such capital improvements:

(A1) Are necessary to bring the rental unit or rental facility into compliance or maintain compliance with applicable code requirements, provided that in determining the cost of a capital improvement no consideration shall be given to any additional costs for increased property damage and/or deterioration resulting from an unreasonable delay in the undertaking or completion of any repair or improvement; or

(B2) Are provided to maintain the rental unit or rental facility in good physical condition and to maintain services provided to tenants.

(B) Rent levels shall not be raised to reflect the costs of installing room air conditioning units or central air conditioning in rental units where the landlord did not previously provide room air conditioning units or central air conditioning, including rental units where the tenants used their own room air conditioning units.

(C) Rent levels shall not be raised to reflect the costs of installing a central air conditioning system for a rental facility or rental unit unless the landlord previously provided central air conditioning to the rental facility or rental unit.